

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Kent Daniels on 06/18/2009.

The application has been amended as follows:

In Claim 9, lines 1-8, the phrase "An optical transmission system comprising measuring means to measure the amplitude distortion component in an optical transmission signal subject to noise and amplitude distortion components, the measuring means adapted to measure the amplitude distortion component by analyzing the bit error ratio (BER) of the signal as a function of a movable decision threshold, wherein said measuring means is adapted to perform said analysis in a high bit error ratio area of the function, away from a center of an eye, and in a low bit error ratio area closer to the centre of the eye." is now changed to -- An optical transmission system comprising measuring means to measure the amplitude distortion component in an optical transmission signal subject to noise and amplitude distortion components, the measuring means adapted to measure the amplitude distortion component by analyzing the bit error ratio (BER) of the signal as a function of a movable decision threshold, wherein said measuring means is adapted to perform said analysis in a high bit error ratio area of the function, away from a center of an eye, and in a low bit error ratio area

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closer to the centre of the eye; and further comprising comparing means to provide said BER values by comparing the signal with a variable decision threshold.--.

Claim 14 is canceled.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye, can be reached on (571)272-3078. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

/Hanh Phan/

Primary Examiner, Art Unit 2613